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**MEDIA STATEMENT
FOR IMMEDIATE RELEASE
11 OCTOBER 2023**

**HEALTH SECTOR ANTI-CORRUPTION FORUM (HSACF) RAISES CONCERN ON FRAUDULENT
MEDICO-LEGAL CLAIMS**

The Health Sector Anti-Corruption Forum (HSACF) convened a successful meeting on 29 September 2023 to discuss and deliberate on the anti-corruption interventions in the health sector. The HSACF, which is a multi-stakeholder collaboration founded on the principle of a whole-of-society approach as envisaged in the National Anti-Corruption Strategy, was established as a strategic intervention to address corruption challenges raised under pillar 7 (leadership and governance) in the Presidential Health Summit, 19 -20 August 2018.

The wide range of institutions within the civil society, public and private sectors that make up the South African anti-corruption landscape have the potential to facilitate the collaborative "whole-of-society" approach towards achieving the vision of a corruption-free country as envisaged by the National Development Plan. The whole-of-society approach objective is to galvanize all the stakeholders in various sectors to collaborate in the fight against maladministration, malpractice, fraud, and corruption and identify areas of cooperation to enhance prevention, detection, civil litigation and prosecution of fraud and corruption.

The HSACF consists of diverse stakeholders from different sectors, such as civil society, law enforcement agencies, regulators, and government departments, who come together to collaborate using their respective mandates to fast-track the investigations of fraud and corruption in the health sector and contribute to the measures to prevent corruption, fraud, waste, and abuse.

The HSACF noted the progress made on the investigations, which has culminated in the recovery of millions of rands, convictions and disciplinary actions. However, the HSACF is concerned about the fraudulent medico-legal claims. The SIU was authorized by President Cyril Ramaphosa to investigate

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allegations of corruption, fraud, and maladministration in the affairs of the National Department of Health and the provincial Department relating to Medico-Legal under Proclamation R74 of 2022.

The SIU briefed HSACF on medico-legal investigations as follows:

NORTHERN CAPE PROVINCE

Approximately 140 medico-legal cases were identified in the Northern Cape province. A total of 42 cases are being handled by three law firms. In one case, the claimant claimed an amount of R23,504,170.00 from the health department for medical negligence. The Department reached an out-of-court settlement of R18.7 million with the legal representative of the claimant. The claimant is allegedly receiving a payment of R6 000 a month for medical expenses.

EASTERN CAPE PROVINCE

Approximately 158 medico-legal matters to the value of about R2.9 billion for contingent liability have been identified and handled by similar legal firms. There are no hospital records of all these claimants found at any of the hospitals. Through the SIU's interventions, the matters were removed from the Contingent Liability Register and subsequently reduced the contingent liability of the Department to R132.8 million.

Five medico-legal claims were identified, with judgements handed down in favour of the claimants. The Department paid out approximately R97.3 million into the trust account of the claimant's attorney. The attorney failed to register trusts as instructed in the court orders. The attorney also failed to communicate the outcome of High Court civil proceedings to the affected claimants and withheld payments to the respective claimants. The attorney was suspended by the Legal Practice Council (LPC) on unrelated matters, and the law firm's trust account was placed under curatorship. The SIU is preparing a referral to the relevant prosecuting authority and LPC.

GAUTENG PROVINCE

Approximately 148 medico-legal negligence claims are being investigated by the SIU, amounting to R1 246 991 176. One potential fraudulent claim to the value of R55 million has been identified. The SIU has advised the Office of the State Attorney to defend the matter.

Approximately 43 contingency liability cases to the value of R108 million have been identified as potential savings to the State. The cases are to be removed from the departments' contingency liability register.

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KWAZULU NATAL PROVINCE

Four medico-legal claims were struck out following the SIU's investigation, which led to the potential loss prevention of R109 553 250. Two applicants withdrew their claims, while the other two were successfully opposed.

Through the SIU's intervention, a medico-legal claim payment of R1 498 050.06 was blocked. SIU investigation had revealed that the child, whose claim had been instituted had passed away.

The SIU investigation into 11 matters in the contingency liability register revealed that the claimants were found to be deceased. As a result, the matters were removed from the contingency liability register by the health department. This resulted in a potential loss prevented of approximately R124 303 250.

NORTH WEST PROVINCE

The Plaintiff instituted civil action on behalf of her minor son, in her capacity as the biological mother and guardian of the child, for cerebral palsy to the amount of R24 453 940. The court ordered the health department to pay damages in the amount of R14 450,000 in February 2021. The mother was traced and interviewed by the SIU. She informed the SIU that they only paid R370 000 by the attorney. The investigation is ongoing to establish what happened to other funds paid into her attorney's Trust Account by the health department.

WESTERN CAPE

During 2018, the SIU was approached by the Western Cape Department of Health regarding alleged fraudulent medical negligence claims submitted by Nonxuba Incorporated Attorneys on behalf of various claimants. About 33 fraudulent birth injury claims were identified in the contingency liability register to the value of approximately R409 million. The Department reported the matter to the Law Society. In April 2022, the Western Cape High Court granted LPC an order interdicting Nonxuba from continuing to practice as an attorney, pending an application by the LPC to have the attorney struck from the roll.

Criminal cases have been registered in the Eastern Cape, Gauteng, and Western Cape against Nonxuba Inc. and Nonxuba. Regarding the criminal case registered in the Western Cape, 33 matters were referred to the South African Police Service and are currently being investigated by the Directorate of Priority Crime Investigations (DPCI). The SIU is collaborating with the DPCI.

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The Chairperson of the HSACF Adv Andy Mothibi commended members of the HSACF in the continued effort and commitment to address and stamp out corruption, maladministration and malpractice in the Health Sector as whole including both private and public. He further noted that the Corruption and Fraud that is besetting the Medico-Legal Claims, and that all stakeholders in the Health Sector should collaborate to develop prevention measures and law enforcement authorities should move swiftly to investigate corruption and fraudulent Medico-Legal claims and all those involved should be held to account. The HSACF further supports the Legal Practice Council in its application to have the attorney Nonxuba to be struck off the roll based on the fraudulent claims brought by his firm.

END

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